

Appl. No. 09/751,640  
Amdt. Dated October 19, 2004  
Reply to Office Action of July 2, 2004

**Remarks/Arguments:**

Applicant hereby confirms the telephonic election dated June 16, 2004. Applicant elects to prosecute group II claims 2-6 without traverse.

Claims 1 to 6 were pending in the present application. Applicant has cancelled claims 1, 3 and 6 herein. Thus, upon entry of the present Amendment, claims 2, and 4 to 5 will be pending in the application.

**Claim Objection is Overcome.**

The Examiner has objected to claim 3 because of the informality of the word "train" instead of "trained." Claim 3 has been cancelled making the objection moot..

**Claim Rejection under 35 USC Section 102 are Overcome.**

The Examiner has rejected claims 2-6 under 35 U.S.C. Section 102(e) as being anticipated by Le-Ngoc, United States Patent Number 6,714,551. Claims 2 and 5 have been amended to include the limitation of using a self-learning automaton of claims 3 and 6 respectively.

Examiner has rejected claims 3-4 and 6 citing that Le-Ngoc teaches a self-learning automaton. Applicant respectfully traverses this rejection.

Examiner cites column 8 lines 4 to 6 and 23 to 31 as teaching a self-learning automaton to reject claims 3-4 and 6. However, column 9 lines 66 and 67 to column 10 line 1 of Le-Ngoc states that "...if the monitored BER and RSL of a particular link are approaching their predefined threshold levels..." Le-Ngoc uses the Transmission Quality Processor to provide repetitive transmission and diversity transmission (col. 8; lines 8-14) not to optimize the switching threshold as is now claimed in Applicant's invention.

Applicant submits that claims 2 and 5 as amended are now in condition for allowance.

Claim 4 has been amended to depend upon claim 2 and is thus also submitted as in condition for allowance.

Appl. No. 09/751,640  
Amdt. Dated October 18, 2004  
Reply to Office Action of July 2, 2004

Applicant respectfully requests the Examiner reconsider and withdraw the rejection under 35 U.S.C. § 102, and claims 2, 4, and 5 to issue without further delay. Applicant requests the Examiner call the undersigned to discuss any remaining matters or issues that may not be clear, if there be any.

Respectfully submitted,

Oct 18, 2004



Steven A. Shaw  
Registration No. 39,368

Customer No. 26343  
NOKIA  
6000 Connection Drive  
MS: 1:4-755  
Irving, TX 75039  
Tel (972) 894-6173  
Fax (7972) 894-5619